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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 RICHARD EARL ODEN,

No. CIV-S-00-2066 MCE/JFM P

12 Petitioner,

13 v.

ORDER

14 MATTHEW C. KRAMER, ET AL.,

15 Respondents.  
16 \_\_\_\_\_/

17 Petitioner, a state prisoner proceeding pro se, has timely  
18 filed a notice of appeal of this court's April 28, 2005, denial  
19 of his application for a writ of habeas corpus. Before  
20 petitioner can appeal this decision, a certificate of  
21 appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P.  
22 22(b).

23 A certificate of appealability may issue under 28 U.S.C.  
24 § 2253 "only if the applicant has made a substantial showing of  
25 the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).  
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1 The certificate of appealability must "indicate which specific  
2 issue or issues satisfy" the requirement. 28 U.S.C.  
3 § 2253(c) (3).

4 A certificate of appealability should be granted for any  
5 issue that petitioner can demonstrate is "'debatable among  
6 jurists of reason,'" could be resolved differently by a different  
7 court, or is "'adequate to deserve encouragement to proceed  
8 further.'" Jennings v. Woodford, 290 F.3d 1006, 1010 (9th Cir.  
9 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).<sup>1</sup>

10 Petitioner has made a substantial showing of the denial of a  
11 constitutional right in the following issues presented in the  
12 instant petition: (1) whether the evidence was insufficient to  
13 support petitioner's conviction for aiding and abetting murder by  
14 torture; (2) whether the evidence was insufficient to establish  
15 proper trial venue in Yolo County; (3) whether the trial judge  
16 improperly coerced a guilty verdict on the murder count; (4)  
17 whether the trial court erred in failing to instruct the jury on  
18 the lesser included offense of involuntary manslaughter; (5)  
19 whether the jury instruction on reasonable doubt violated  
20 petitioner's right to due process; and (6) whether petitioner's  
21 trial counsel rendered ineffective assistance.

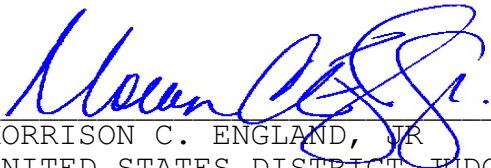
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24 <sup>1</sup> Except for the requirement that appealable issues be  
25 specifically identified, the standard for issuance of a  
26 certificate of appealability is the same as the standard that  
applied to issuance of a certificate of probable cause.  
Jennings, at 1010.

1       Accordingly, IT IS HEREBY ORDERED that a certificate of  
2 appealability is issued in the present action.

3 DATED: May 20, 2005

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7 MORRISON C. ENGLAND, JR.  
8 UNITED STATES DISTRICT JUDGE  
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